IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO. 14 OF 2007

1. Kandivli Education Society College
Alumni Registered under the Society
Act having registered under 2231
And having its office at KES College
Bhulabhai Desai Road Kandivli West
Mumbai 400067

2. Santosh A Maurya
of Mumbai Indian Inhabitant residing
at Sankalp 10, Plot No.126 Sectot 2
RSC II Charkop Kandivli West
Mumbai 400067 **..Petitioners.**

Versus

1. Manoj J Joshi
having his address at 204
A Wing Tejas Apartment
Chincholi Bunder Opp Linkway
Estate Malad Link .Road,

Malad West Mumbai 400064

2. The University of Mumbai

a statutory Body formed under the

Bombay Universities Act and

having its address at M G Road

Mumbai 400020

3. The Kandivli Education Society

having its address at Shantilal

Mody Road, Kandivli West

Mumbai 400067

4. The Chancellor

University of Mumbai

Raj Bhavan, Malabar Hill

Mumbai 400006 ...Respondents

Mr.Deepak Thakur for the petitioners.

Mr N.M. Ganguli for respondent No.1

Mr. Rui Rodrigues with Mr. B.V. Phadnis for respondent Nos.2 & 9

Mr. P.N. Shastri AGP for respondent No.3.

CORAM: SWATANTER KUMAR, C.J., & S.C.DHARMADHIKARI, J.

Judgment reserved on April 05, 2007.
Judgment delivered on April 19, 2007

JUDGMENT(PER SWATANTER KUMAR,C.J.):

1. Petitioner No.1, a registered society, has approached this Court under Article 226 of the Constitution of India praying for issuance of an appropriate writ, order or direction to the respondents that the opinion expressed by the Committee about the eligibility of respondent no.1 to be a Lecturer (Accountancy) dated 19.9.2006 be quashed and to further quash the order dated 6.6.2003 passed in Appeal No. 101/2002 and also for issuance of an order of restraint prohibiting the said respondent from teaching in the University. The Society, which is a body of ex-students of the respondent-college and claims to be interested in maintenance of academic standards and dispensation of education to the students by competent and qualified lecturers, states that the respondent no.1 is not qualified to be a lecturer in the University of Mumbai, which is a statutory body and provides education to the students. There has been controversy with regard to appointment of respondent no.1 in the respondent-college.

2. Respondent no.1 had applied to the respondent-college in response to an advertisement for the post of Lecturer in Accountancy. He was appointed to that post in furtherance thereto. According to the petitioner, the respondent no.1 was only an M.Com in Secretarial Practice from Shivaji University and as such was not qualified to be a Lecturer in Accountancy. The qualifications required for the said post is a M.Com degree with Management (Accountancy) as a special principal subject and that he should have also done Advance Secretarial Practice as an allied additional subordinate subject. The appointment of respondent no.1 was challenged on the grounds that the qualifications prescribed under the circular of University of Mumbai, could not be varied. As respondent no.1 was not qualified to be appointed as a lecturer, he could not be permitted to continue in that post. There are other serious controversies in regard to his appointment. It is averred that on 11.11.2002, the principal of the College had issued an order of termination of service of the said respondent but the College Tribunal vide its order and judgment dated 6.6.2003 allowed the appeal and set aside the order

of termination. The order of the College Tribunal was challenged in Civil Writ Petition No. 1813/2003 in which the Court referred the matter to the Committee of the University in relation to the eligibility and qualifications of the said respondent. The Committee opined that the respondent no.1 was qualified/eligible to be appointed to the said post and the report of the Committee was placed before the Academic Council on 10.11.2006 which granted approval of the same.

3. In the present writ petition, it is averred that there are other serious allegations against said respondent no.1 and he being not a qualified teacher, would dilute the educational standards in the University, hence, would cause prejudice to number of students and thus, they approached this court in the larger public interest.

4. The first and foremost question that falls for consideration before the Court in the present case is whether it is a bonafide Public Interest Litigation and whether the same is intended to protect the interest of the public at large. We have no hesitation in answering this question in the negative.

5. From the afore-narrated facts, it is obvious that the petitioners have no direct interest in the conditions of service of respondent no.1. He was appointed in accordance with law and on the ground of his being ineligible, his services were terminated. The order of termination was set aside by the College Tribunal and the High Court had referred the matter to the University Committee vide its order dated 14.7.2006. Not only the Committee but even the Academic Council of the University found that he was eligible to be appointed to the post of Lecturer.

6. Here is a person who was appointed as a Lecturer 8 years back and has discharged the functions of a Lecturer for all this time. There is no explanation rendered by the petitioner why they did not approach the Court for all these years, if they were genuinely concerned with maintenance of educational standards of the University. The present litigation *ex facie* appears to be a private litigation in the garb of a Public Interest Litigation. The principles enunciated by the Supreme Court in the cases of **Kusum Lata vs.**

Union of India and Ors. (2006) 6 Supreme Court Cases 180; **Dattaraj Nathuji Thaware vs. State of Maharashtra and Ors. (2005) 1 Supreme Court Cases 590**; **Gurpal Singh vs. State of Punjab and Ors. 2005 (5) Supreme Court Cases 136** and **Dr. B. Singh vs. Union of India and Ors. (2004) 3 Supreme Court Cases 363**, are clear that where the private interest is more significant than a public interest or where the litigation is for an ulterior motive and is intended to settle personal vendetta rather than public good, the Court should essentially dismiss such writ petitions. In the case of **Dr. B. Singh (supra),** the Supreme Court while observing that the Courts should discourage such litigations, held as under:-

> "16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra (1998) 7 SCC 273 : 1998 SCC (L&S) 1802; AIR 1999 SC 114* this court held that in

> service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out the truth and motive behind the petition. Whenever such frivolous pleas, as noted, are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

7. The truth as it emerges from the facts on record is clear that the present writ petition as filed is not intended to achieve any public object, goal or interest. The petition, at the face of it, is frivolous. It is also noteworthy that the petitioners are well-aware about the entire litigation between the respondent no.1, the University and the College. Still they never made any attempt to intervene or

prayed for impleadment in such proceedings. The attempt appears to be to continue or prolong the litigation on one pretext or another.

8. In our considered opinion, this petition certainly fails to satisfy any of the ingredients of a Public Interest Litigation and consequently the same is dismissed, while leaving the parties to bear their own costs.

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CHIEF JUSTICE

S.C.DHARMADHIKARI, J.